

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Accounting Safeguards)	CC Docket No. 96-150
Under the Telecommunications Act of 1996)	
)	
Section 272(d) Biennial Audit Procedures)	
)	

WORLDCOM OPPOSITION

WorldCom, Inc. (WorldCom) hereby submits its opposition to the Petition for Reconsideration and Request for Stay filed by Verizon Communications, Inc. (Verizon).

In its petition, Verizon seeks reconsideration of the Commission=s January 10, 2002 Memorandum Opinion and Order (Order) denying confidential treatment of information contained in the Section 272(d) audit report arising out of the first biennial audit.¹ Verizon also suggests that, in the alternative, the Commission should adopt a protective order to prevent use of the data at issue for purposes other than commenting on the audit results.²

¹Accounting Safeguards Under the Telecommunications Act of 1996, Memorandum Opinion and Order, CC Docket No. 96-150, released January 10, 2002 (Order).

²Verizon Petition at 1.

Verizon=s petition provides no basis for the Commission to reconsider the Order=s findings. Almost without exception, Verizon still Aonly refers generally to its redactions in the audit report and does not explain how specific information at issue . . . could cause competitive harm.@³ As the Commission emphasized in the Order, without such explanations Athe Commission cannot conduct a reasoned analysis as to whether materials submitted in confidence may, in fact, be properly withheld under Exemption 4.@⁴ Consequently, for the vast majority of data items redacted by Verizon, the Commission should simply reiterate the Order=s conclusion denying Verizon=s request for confidential treatment and requiring public disclosure of those data items.

For only three data items does Verizon=s petition for reconsideration even attempt to justify its claim that disclosure of the information at issue would cause substantial competitive harm: fully distributed cost (FDC) cost information in Tables 9, 10, and 11; certain equipment prices in Table 12; and access order volumes in Table 14.⁵

Verizon fails, however, to demonstrate that those three items may be properly withheld under Exemption 4.

³Order at & 15.

⁴Order at & 13.

⁵Verizon Petition at 8-10.

First, Verizon is incorrect when it claims that competitors could derive order and sales volumes from the monthly cost information in Tables 9, 10, and 11. The costs shown in those tables apparently aggregate purchases of a variety of joint marketing services,⁶ thus precluding competitors from deriving order or sales figures from the cost data. And, even if competitors could derive order and sales volumes from the monthly cost information, those volumes pertain to only a limited sample of transactions in particular months. Scattered information pertaining to such a limited number of transactions does not constitute information whose disclosure could cause Verizon substantial competitive harm, particularly since it has been over a year since the transactions at issue took place.

Similarly, disclosure of the equipment prices shown in Table 12 could not cause Verizon substantial competitive harm because Table 12 provides prices for only a minuscule fraction of Verizon's asset base -- 14 items. Equally importantly, the equipment price data is shown in the audit report only in aggregated form: the audit report does not contain invoices or detailed descriptions of the items listed in Table 12 or any other equipment items transferred to Verizon's Section 272 affiliates. Indeed, 11 of the 14 items shown in Table 12 are described simply as a Acabinet.@

Verizon's speculation that disclosure of access order volumes in Tables 14a, 14b, and 14c would Aprovide useful insights into Verizon's likely entry into subsequent market@ is insufficient to justify withholding those data under Exemption 4. Verizon fails to explain why knowledge of Verizon's order history in New York in 2000 would

⁶See, e.g., http://www2.verizonld.com/regulatory/regulatory.jsp?page_id=100074

constitute a Auseful@ insight, much less demonstrate that such insight could be used by competitors to inflict substantial competitive harm.

Even if the Commission were to find that the three data items discussed in Verizon=s petition for reconsideration may be withheld under Exemption 4, the Commission should nonetheless release that information pursuant to its discretionary authority under Sections 272(d) or 220(f) of the Act.⁷ Disclosure of the information at issue is consistent with the congressional intent to disclose the section 272(d) audit results,⁸ and is necessary for meaningful public comment on the audit reports. In particular, disclosure of the order volumes in Tables 14a, 14b, and 14c is necessary for the public to evaluate Verizon=s compliance with the Section 272(e)(1) nondiscrimination requirements. Without access to the order volume data, commenters cannot evaluate Verizon=s contention that discrepancies in Verizon=s provisioning performance are Astatistically meaningless.@⁹

⁷Order at & 14.

⁸Id.

⁹Verizon Response, page 6.

To the extent that the Commission finds it necessary to adopt a protective order to ameliorate any potential competitive harm with respect to items found to be subject to Exemption 4 but released pursuant to the Commission=s discretionary authority, that protective order should be less restrictive than the order proposed by Verizon. Rather than restrict the use of audit information to the Verizon audit proceeding, as Verizon suggests,¹⁰ the protective order should also permit use of the audit information in Verizon Section 271 proceedings and in enforcement proceedings under Section 271(d)(6). Given that Section 271 requires the Commission to determine whether the requested authorization will be carried out in accordance with the requirements of Section 272,¹¹ interested parties should be permitted to refer to audit results in future Verizon Section 271 proceedings.

For the reasons stated herein, the Commission should deny Verizon=s petition for reconsideration and request for stay.

Respectfully submitted,
WORLDCOM, INC.

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¹⁰Verizon Petition at 1.

¹¹47 U.S.C. § 271(d)(3)(B).

CERTIFICATE OF SERVICE

I, Barbara Nowlin, do hereby certify that copies of the foregoing Opposition were sent via first class mail to the following on this 18th Day of January, 2002.

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